TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1910.

No. 760.

CHRISTOPHER C. WILSON, APPELLANT,

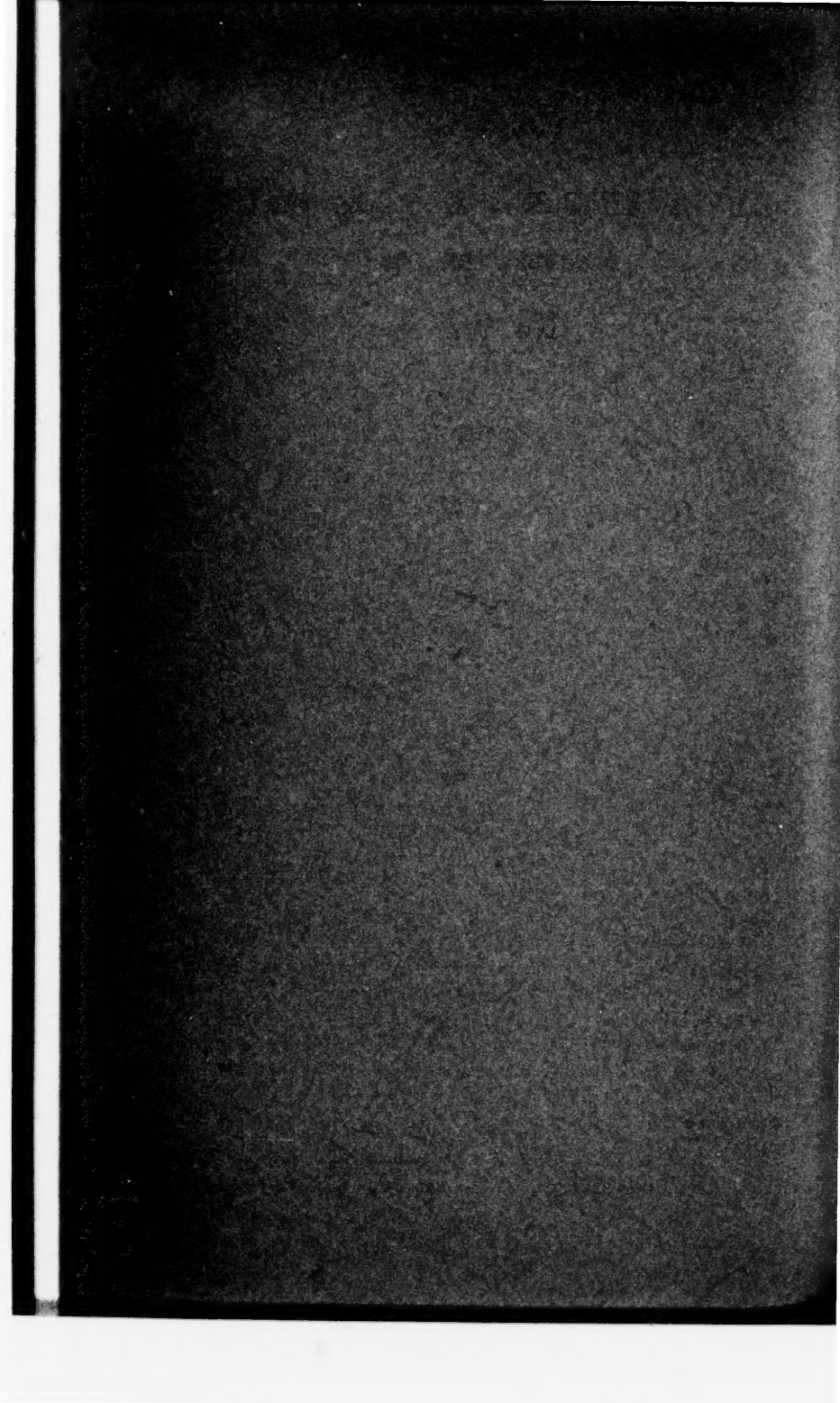
vs.

THE UNITED STATES.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

FILED NOVEMBER 8, 1910.

(22,381.)



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JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., JANUARY 13, 1911.

1 *Petition for Writ of Habeas Corpus.*

Circuit Court of the United States in and for the Southern District of New York.

In the Matter of the Application of C. C. WILSON for a Writ of Habeas Corpus.

To the Honorable the Judges of the Circuit Court in and for the Southern District of New York:

The petition of C. C. Wilson, for a Writ of Habeas Corpus, respectfully shows:

1. That your petitioner is a citizen of the United States, and an inhabitant of the State of New York, and a resident of the City of New York, in this circuit and district.

2. That your petitioner is now, and for upwards of a year has been continuously, a director and the president of the United Wireless Telegraph Company, a corporation duly organized and existing under and by virtue of the laws of the State of Maine.

2 3. That your petitioner is now actually imprisoned and restrained of his liberty and detained by color of the authority of the United States, in the custody of William Henkel, Esq., United States Marshal, in and for the Southern District of New York, to wit, at the Borough of Manhattan of the City of New York, in said district.

4. That the sole claim or authority by virtue of which the said William Henkel, Marshal as aforesaid, so restrains and detains your petitioner is a certain commitment in writing, a copy of which is hereto annexed marked "Exhibit A," which commitment is an order of the Court made at a stated term thereof, held at the Post Office Building, in the City of New York, on the 10th day of October, 1910.

5. That the said last-mentioned order was made and based solely and exclusively upon a certain presentment or report presented to and filed in this Court by the Grand Jury of the United States for the Southern District of New York, on the 10th day of October, 1910, and the affidavit of petitioner in answer thereto, which said presentment and affidavit are on file in this Court, and to which your petitioner respectfully refers and begs to make part hereof.

6. That your petitioner's imprisonment, restraint and detention are without authority of law whatsoever, and in violation of his rights, privileges and immunities under the Constitution and laws of the United States, for the following reasons:

(*a*) That this Court was without jurisdiction under the said Constitution and laws by reason of any of the matters or things

3 contained and set forth in said presentment of the Grand Jury, to entertain any charge of contempt against your petitioner, or to act or proceed in any manner in the premises.

(*b*) That the day your petitioner attended before the said Grand Jury and was examined in the manner and under the circumstances disclosed by said presentment or report, there was no "cause" or "action" of any kind pending in this Court between the United States and any party mentioned in the paper called "*subpœna duces tecum*," copy of which is annexed hereto and marked "Exhibit 1," in which your petitioner could be required under the Constitution and laws to testify or give evidence before the Grand Jury.

(*c*) The Grand Jury was not in the exercise of its proper and legitimate authority in prosecuting the alleged investigation set out in the said presentment, the powers of a Federal Grand Jury being limited under the Constitution to the investigation of specific charges against particular persons, and there being under investigation by the Grand Jury at the time your petitioner attended before them no specific charges against any particular person.

(*d*) That the said paper called "*subpœna duces tecum*," hereto annexed and marked "Exhibit 1" is illegal, unauthorized and void, for the reasons that it does not comply with Section 877 of the Revised Statutes of the United States, in that it requires the person addressed to appear, but does not require said person to attend; and in that it does not require the person addressed "to testify generally"

on behalf of the United States; and because it was not issued
4 pursuant to any order of the Court therefor; and because it is addressed to the corporation without mention of any individual or officer of said corporation; and because such a subpœna would not apprise the defendant in a prosecution which might follow, of the name of the precise witness who might have appeared pursuant thereto before the Grand Jury against him.

7. That your petitioner should not be held in contempt of Court for the following reasons, among others:

Because the "subpœna" in question was not directed to him, but was directed merely to the corporation; because your petitioner cannot be compelled to produce evidence, papers or documents which tend to incriminate him, your petitioner being already under two indictments, filed in this Court on August 3, 1910, charging your petitioner and others, one with the alleged fraudulent use of the mails, the other with a conspiracy to commit an offense against the United States, and your petitioner being also the party mentioned in the said "subpœna" as the person alleged to have been guilty of violation of the statutes of the United States, which is the subject of said Grand Jury investigation.

8. That your petitioner is now, and for a long time past has been, in possession, custody and control of the book referred to in said "subpœna," and did not acquire such possession or custody in anticipation of these or any other proceedings, nor with any purpose of evading any subpœna or process issued or to be issued for the said papers. That your petitioner has, since the filing of the said two indictments against him, which are respectfully referred to and

made a part of this application, been using the said book
5 called for in said "subpœna" in the preparation of his defense thereto, and that his use of the said book is necessary and essential for the preparation of his said defense.

9. That the proceedings herein requiring your petitioner to produce the papers called for by the said "subpœna" are in violation of your petitioner's rights under the Fourth Amendment of the Constitution of the United States, and also in violation of his rights under the Fifth Amendment to the Constitution of the United States.

10. Your petitioner is advised by counsel and verily believes, that for the reasons above stated the order adjudging him guilty of contempt, and his commitment pursuant thereto, were without legal right, authority or jurisdiction of any kind, and are utterly void and ineffectual, and that his detention and imprisonment thereunder are in violation of the Constitution of the United States and in violation of his rights, privileges and immunities thereunder.

Wherefore, your petitioner prays that a Writ of Habeas Corpus may issue directed to the said William Henkel, Esq., Marshal as aforesaid, or to any of his deputies, requiring him or them to bring and have your petitioner before this Court at a time to be by it determined, together with the true cause of his detention, to the end that due inquiry may be had in the premises, and that this Court may proceed in a summary way to determine the facts of the case in that regard, and the legality of your petitioner's imprisonment, restraint and detention, and thereupon to dispose of your
6 petitioner as law and justice require. And your petitioner will ever pray.

Dated, New York City, October 10, 1910.

CHRISTOPHER C. WILSON,
Petitioner.

JOHN B. STANCHFIELD,
Attorney for Petitioner, Office and P. O. Address, No. 11 Pine Street, New York City.

UNITED STATES OF AMERICA,
Southern District of New York,
City, County and State of New York, ss:

Christopher C. Wilson, being duly sworn, deposes and says, that he is the petitioner above named; that he has read the foregoing petition and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters he believes it to be true.

CHRISTOPHER C. WILSON.

Sworn to before me this 10th day of October, 1910.

LEARNED HAND,
U. S. District Judge.

(Exhibit A annexed being copy of order of October 10, 1910, adjudging Christopher C. Wilson guilty of contempt of Court, presentment with exhibits attached and answering affidavit, being the papers upon which said order was granted.)

(Exhibit 1 referred to in the foregoing petition is the same as Exhibit A, attached to the presentment printed at page 11.)

7 EXHIBIT A.

Order.

At the September Term of the United States Circuit Court for the Southern District, for the trial, etc., of criminal causes, held at the U. S. Court House and Post Office Building in the Borough of Manhattan, City of New York, on the 10th day of October, 1910.

Present: Hon. Learned Hand, District Judge.

In the Matter of the Presentment of the United States Grand Jury for the Southern District of New York against Christopher C. Wilson.

Upon reading the presentment of the grand jury of the United States for the Southern District of New York, this day filed, and the affidavit of Christopher C. Wilson, verified the 10th day of October, 1910, and after hearing Henry A. Wise, Esq., United States Attorney for the Southern District of New York, and John B. Stanchfield, Esq., *Esq.*, representing said Wilson, it is

8 Adjudged that said Christopher C. Wilson is guilty of a contempt of this Court, and it is

Ordered that said Christopher C. Wilson be and he hereby is committed to the custody of the United States Marshal for the Southern District of New York, and that he stand committed to such custody until he shall cease to obstruct and impede the United Wireless Telegraph Company from complying with the *subpœna duces tecum* attached to the above mentioned presentment, or otherwise purge himself from this contempt.

LEARNED HAND,
U. S. Judge.

U. S. Circuit Court, Southern District of N. Y.—Filed Oct. 11, 1910.—John A. Shields, Clerk.

9 *Presentment.*

United States Circuit Court for the Southern District of New York, of the September Term, 1910.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

The Grand Jurors of the United States of America, empanelled and sworn in the Circuit Court of the United States for the Southern District of New York, at the September Term thereof, in the year 1910, and inquiring for that district, upon their oath present,

That for some time past they have been inquiring into alleged violations of the United States Revised Statutes by one Christopher

C. Wilson and others, who are charged with violations of Sections 5440 and 5480, U. S. Revised Statutes, as amended;

That on the 7th day of October, 1910, a *subpœna duces tecum* duly issued out of this Court, addressed to United Wireless Telegraph Company, which is hereto annexed as Exhibit "A," and that the same was, on said 7th day of October, 1910, duly served upon said United Wireless Telegraph Company by delivering a copy thereof to Christopher C. Wilson, who was then the President of said United Wireless Telegraph Company, and at the same time exhibiting the original to him;

That said subpœna was further duly served upon said United Wireless Telegraph Company on the 8th day of October, 1910, by delivering copies thereof to Lucien A. Wallace and Edward P. Davis, who were then directors of said company, and at the same time exhibiting the original to them; and said subpœna was further duly served upon said United Wireless Telegraph Company,
10 on the 10th day of October, 1910, by delivering a copy thereof to one Cloyd Marshall, who then was the secretary of said company, and at the same time exhibiting the original thereof to him, all of which will appear by the return of the United States Marshal for the Southern District of New York endorsed upon said Exhibit "A";

That on the 10th day of October, 1910, at eleven o'clock in the forenoon, at Room 119, United States Court House and Post Office Building, by direction of the grand jurors aforesaid, a Deputy United States Marshal for the Southern District of New York called through the corridors of said Post Office Building the aforesaid United Wireless Telegraph Company, and commanded its response to the aforesaid subpœna, said grand jurors being then and there in session and inquiring into the aforesaid alleged violations of the United States Statutes;

That at the time of service of said subpœna upon said United Wireless Telegraph Company, said Company owned and had the book called for in said *subpœna duces tecum*, to wit, a letter press copy book containing press copies of letters and telegrams signed by the President of said United Wireless Telegraph Company, in the months of May and June, 1909;

That said United Wireless Telegraph Company has failed to produce said book in obedience to the aforesaid subpœna;

That upon the calling of said subpœna by said Deputy United States Marshal, as aforesaid, the aforesaid Christopher C. Wilson came into the room where the grand jurors aforesaid were in session, and in response to questions propounded to him, when not under oath, he stated that he answered the call of said Deputy United
States Marshal for said United Wireless Telegraph Com-
11 pany, and declined to answer further questions until he was sworn, whereupon he was sworn, and then and there, in his presence, the inquiry was made whether or not said United Wireless Telegraph Company produced the letter press copy book called for in the aforesaid subpœna, to which inquiry said Christo-

pher C. Wilson filed a written reply which is hereto annexed, marked Exhibit "B";

And so the grand jurors aforesaid, upon their oath aforesaid, do present that said Christopher C. Wilson, at the City, County and Southern District of New York, on the 10th day of October, 1910, is guilty of a contempt of this Court and of the process thereof, in that he is wilfully and knowingly obstructing and impeding said United Wireless Telegraph Company from complying with and obeying the process of this Court.

ROBERT N. BOLTON, *Foreman.*

EXHIBIT A.

The President of the United States of America to United Wireless Telegraph Company, 42 Broadway, New York, N. Y., Greeting:

[SEAL.]

We command you, That all business and excuses being laid aside you appear before the Grand Inquest of the Body of the People of the United States of America for the Southern District of New York, at a Circuit Court to be held in the United States Court House and Post Office Building, Borough of Manhat-
12 tan, City of New York, on the 10th day of October, 1910, at 11 o'clock in the forenoon, and that you produce at the time and place aforesaid, the following:

Letter press copy books of United Wireless Telegraph Company containing copies of letters and telegrams signed or purporting to be signed by the President of said company during the months of May and June, 1909; in regard to an alleged violation of the statutes of the United States by C. C. Wilson.

And for a failure to produce the aforesaid documents you will be deemed guilty of a contempt of Court, and liable to the penalties of the law.

Witness, the Honorable John M. Harlan, Senior Associate Justice of the United States, at the Borough of Manhattan, City of New York, the 7th day of October, 1910.

JOHN A. SHIELDS, *Clerk.*

HENRY WISE,
U. S. Attorney.

(Endorsed:) I hereby certify that on the 7th day of October, 1910, at the City of New York, in my district, I served the within subpœna upon the within named United Wireless Telegraph Co. by exhibiting to C. C. Wilson as President of said Company at 42 Broadway, New York City, the within original, and at the same time leaving with him a copy thereof.

(Signed) WM. HENKEL,
United States Marshal, Southern District of New York.

Dated Oct. 7, 1910.

13 I hereby certify that on the 8th day of October, 1910, at the City of New York, in my district, I served the within subpœna duces tecum upon the within named United Wireless Telegraph Company by exhibiting to Edward P. Davis as director of said Company at 42 B'way, New York City, the original and at the same time leaving with him a copy thereof.

(Signed) WM. HENKEL,
United States Marshal, Southern District of New York.

Dated Oct. 8, 1910.

I hereby certify that on the 8th day of October, 1910, at the City of New York, in my district, I served the within subpœna duces tecum upon the within named United Wireless Telegraph Company by exhibiting to Lucien C. Wallace as director of said Company at 42 B'way, New York City, the within original and at the same time leaving with him a copy thereof.

(Signed) WM. HENKEL,
United States Marshal, Southern District of New York.

Dated Oct. 8, 1910.

I hereby certify that on the 10th day of October, 1910, at the City of New York, in my district, I served the within supœna upon the within named United Wireless Telegraph Company by exhibiting to Cloyd Marshall, as Secretary of said Company at 42 B'way, the within original and at the same time lea ing with him a copy thereof.

(Signed) WM. HENKEL,
United States Marshal, Southern District of New York.

Dated October 10, 1910.

14 I hereby certify that after due and diligent search I am unable to find Samuel S. Bogart, Vice-President of the United Wireless Telegraph Co. in my district.

WM. HENKEL,
United States Marshal, Southern District of New York.

Dated October 10, 1910.

Exhibit B.

To the Foreman and Grand Jury of the United States for the Southern District of New York:

I. On October 8, 1910, a paper purporting to be a subpœna, and hereinafter termed a subpœna, of which a copy is hereto annexed marked "Exhibit A," was personally delivered to me addressed to United Wireless Telegraph Company, requiring it to appear and produce at the time and place therein specified "letter press copy

books of United Wireless Telegraph Company containing copies of letters and telegrams signed or purporting to be signed by the President of said Company during the months May and June, 1909."

II. During and since the months of Mayand June, 1909, and prior thereto, I have been and still am President of said United Wireless Telegraph Company, which is a corporation incorporated under the laws of the State of Maine and engaged in the lawful business of transmitting and receiving wireless messages and of manufacturing and constructing apparatus and appliances therefor, and of equipping boats and stations for the transmission and receipt of such messages.

III. Said letter press copy books for the months May and June, 1909, in said subpœna mentioned during said months of May and June, 1909, were kept regularly in my office as President of said corporation, and were regularly used by me and for the most part, if not entirely, by me only, and contained copies of my personal and other correspondence, as well as copies of the correspondence relating to the business and affairs of said corporation. For the greater part of the time during and since May and June, 1909, and all the time during the last month and more, said letter press copy books have been and still are in my possession, custody and control, and as against any other officer or employee of said corporation, or any other person, I have been entitled to such possession, custody and control. I did not secure and have not at any time held possession of said letter press copy books in anticipation that any subpœna for their production would be served upon me or said corporation, or for the purpose of evading any subpœna or other legal process which might be served upon me or said corporation.

IV. I am the C. C. Wilson mentioned in the clause of said subpœna which reads "in regard to an alleged violation of the statutes of the United States by C. C. Wilson."

V. On or about August 3, 1910, the Grand Jury of the United States at a Term of the Circuit Court of the United States of America, for the Southern District of New York, in the Second Circuit, found two indictments against me and certain other defendants therein named, officers, directors and stockholders of the United Wireless Telegraph Company, which indictments were filed in this Court August 3, 1910, and to which indictments on file in this Court, I respectfully refer and make a part of this affidavit, and I ask that said two indictments be made a part of the record in this matter. One of the said indictments charges the defendants therein, including myself, officers, directors and stockholders of said United Wireless Telegraph Company, with having prior to July 3, 1909, devised a scheme to defraud by use of the mails by making false representations with reference to the business and property of said United Wireless Telegraph Company. The other of said indictments charges the defendants therein, including myself, officers, directors and stockholders of the United Wireless Telegraph Company, with having on October 1, 1907, conspired to commit offenses against the United States, by devising

a scheme to obtain money and property by false pretenses to be effected by opening and intending to open correspondence and communication with various persons, by placing in a postoffice of the United States letters, circulars, pamphlets and other writings, making false representations with reference to the business and property of the said United Wireless Telegraph Company. The said two indictments are now pending and have not been brought to trial, but I have been arraigned and entered my pleas to the same, with leave to withdraw my pleas and demur or make such motions as I may see fit on or before October 18, 1910.

VI. Since the filing of said indictments against me on August 3, 1910, I have been engaged in preparing my defense thereto, and have been using said letter press copy books called for by said subpœna, especially during the past month or more in preparation of my defense to said indictments.

VII. I claim and verily believe the production of said letter press copy books, as called for by said subpœna, and the matters therein contained, would tend to incriminate me, and that the production thereof would violate my rights and the privileges guaranteed to me by law, and that for these reasons I am not required by law and should not be compelled, directly or indirectly, to furnish or produce said letter press copy books, as called for by said subpœna, nor to testify in regard to the contents thereof, nor to permit the contents thereof to be used against me, and that compulsion should not be exercised upon me to this end by virtue of a subpœna addressed to the United Wireless Telegraph Company, or otherwise.

VIII. I now have said letter press copy books with me and in my possession, but for the reasons hereinbefore stated I decline to deliver them to the Grand Jury, or to testify in regard to the contents thereof, but such declination and the above and foregoing objections are made by me in good faith and without intending any disrespect to the Grand Jury or to the Court, and without any intention on my part to obstruct or in any manner interfere with the due administration of justice, but solely to protect my legal rights in the premises.

C. C. WILSON.

(Exhibit A annexed same as Exhibit A attached to Presentment of Grand Jury).

U. S. Circuit Court, Southern District of N. Y.—Filed Oct. 10, 1910—John A. Shields, Clerk.

18 *Affidavit in Answer to Presentment.*

United States Circuit Court for the Southern District of New York.

In the Matter of an Alleged Contempt of Court of CHRISTOPHER C. WILSON.

UNITED STATES OF AMERICA,
Southern District of New York,
City and County of New York, ss:

Christopher C. Wilson, being duly sworn, deposes and says, that he is the same Christopher C. Wilson mentioned in a presentment of the Grand Jury filed in this Court on the 10th day of October, 1910.

Deponent further says that the statement mentioned in said presentment, a copy of which statement is annexed to said presentment as Exhibit B thereof, is true as to all matters therein contained, except those stated to be upon information and belief, and as to such matters so stated to be upon information and belief deponent believes said statement to be true, except that said statement contains a clerical error as to the date when the alleged subpœna annexed to said presentment as Exhibit A was served upon
19 deponent, said service being upon October 7, 1910, instead of October 8, 1910, as inadvertently stated in said statement.

CHRISTOPHER C. WILSON.

Sworn to before me this 10th day of October, 1910.
[SEAL.] JOHN A. SHIELDS,
U. S. Comm'r.

U. S. Circuit Court, Southern District of N. Y.—Filed Oct. 10, 1910.—John A. Shields, Clerk.

20 *Indictment.*

(Copy Indictment Scheme to Defraud by Use of the Mails.)

Circuit Court of the United States of America for the Southern District of New York, in the Second Circuit.

UNITED STATES
vs.
CHRISTOPHER C. WILSON et al.

At a Stated Term of the Circuit Court of the United States of America for the Southern District of New York, in the Second Circuit, begun and held in the City of New York, within and for the District and Circuit aforesaid, on the first Monday of July, in the

year of our Lord one Thousand nine hundred and ten, and continued by adjournment to and including the third day of August, in the year of our Lord one thousand nine hundred and ten.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

The Jurors of the United States of America within and for the District and Circuit aforesaid, on their oath present that
21 Christopher C. Wilson, Samuel S. Bogart, William W. Tompkins, George H. Parker, Francis X. Butler, Charles C Galbraith and William A. Diboll, officers, directors and stockholders of the United Wireless Telegraph Company, a corporation organized under the laws of the State of Maine, and named as defendants herein, late of the City and County of New York, in the District and Circuit aforesaid, yeoman, heretofore, to wit, on the third day of July, in the year of our Lord one thousand nine hundred and nine, at the Southern District of New York, and within the jurisdiction of this Court, having theretofore devised and intended to devise, a scheme and artifice to defraud one Asa S. Couch, in and by the name of Osa S. Couch, and divers other persons to the jurors unknown, that is to say, to obtain from them and each of them their moneys and property by false pretenses, and to induce the said Asa S. Couch and said other persons to send to them the said defendants in and by the name of the United Wireless Telegraph Company, such moneys and property with the intent on the part of the said defendants to convert the same to their own use in and by falsely and fraudulently pretending that the purpose of the organization of the said United Wireless Telegraph Company was to consolidate the two great wireless telegraph companies, namely, the American De Forest Wireless Telegraph Company and the Marconi Wireless Telegraph Company, and by taking over all wireless telegraph companies or wireless inventions that might or could in any way come in competition with the said United Wireless Telegraph Company; and it was their general purpose to represent to the said Asa S. Couch and the said divers other persons that the practical operation of wireless telegraphy by said United Wireless Telegraph Company
22 was yielding large net profits over and above operating expenses, and that the said company practically had a monop-ly of the wireless business of the continent of North America, and on account thereof the stock of said United Wireless Telegraph Company had high commercial value; and that the said company was free from debt, except current expenses, and had ample funds on hand to pay dividends on the stock issued and to extend and enlarge its commercial business; and that the officers and directors of the said company were not disposing of their personal stock in the said company, but that the sales were only of treasury stock of the same.

Whereas, in truth and in fact, there was not a consolidation of the said wireless telegraph companies; that is to say, the American De Forest Wireless Telegraph Company and the said Marconi Wireless Telegraph Company, and the same was never undertaken

by the said defendants and it was never intended by them that the same should be undertaken or accomplished, and it was never intended by them that the said United Wireless Telegraph Company should take over all wireless telegraph companies or inventions that might or could come in competition with the said United Wireless Telegraph Company; and it was untrue, as said defendants then and there well knew, that the practical operation of wireless telegraphy by said United Wireless Telegraph Company was yielding large net profits over and above operating expenses, and that said company had a monop-ly of the wireless business of the continent of North America, and that by reason thereof the stock of said United Wireless Telegraph Company had high commercial value; and it was untrue, as said defendants then and there well
23 knew, that the said company was free from debt except current expenses and had ample funds to pay dividends on the stock issued by said company and to extend and enlarge its commercial business; and it was likewise untrue, as said defendants then and there well knew, that the officers, directors and stockholders of the said United Wireless Telegraph Company, that is to say, the said defendants, were not disposing of their personal stock in said company, and that the sales of the stock of said company were confined to the treasury stock of the same, and indeed and in truth it was a part of the scheme and artifice of said defendants to sell their personal stock in said company, as well as the treasury stock thereof, pretending the same to be treasury stock.

And it was part of said scheme and artifice of said defendants to represent to the said persons intended to be deceived thereby, that the said United Wireless Telegraph Company was a consolidation of the said American De Forest Wireless Telegraph Company and the Marconi Wireless Telegraph Company in their systems of wireless telegraphy and that the said United Wireless Telegraph Company owned a controlling interest in the said Marconi Wireless Telegraph Company. But in truth and in fact the foregoing last-named representations would be utterly untrue in every respect as the said defendants then and there well knew.

And it was also a part of the said scheme and artifice of the said defendants to represent to the said persons intended to be deceived thereby, that the said United Wireless Telegraph Company had an income sufficient in the year nineteen hundred and seven to pay seven per cent. dividends on their preferred stock and to take care of all the expenses of the said company and leave a surplus;
24 all of which would be utterly untrue as the said defendants then and there well knew.

And it was also a part of the said scheme and artifice of the said defendants to represent to the said persons intended to be deceived thereby, that the said United Wireless Telegraph Company had and was continually acquiring large stock interests in the said Marconi Wireless Telegraph Company, all of which would be untrue as the defendants then and there well knew.

And it was a part of the said scheme and artifice of the said defendants to represent to the said persons intended to be deceived and in-

fluenced thereby, that stock of said United Wireless Telegraph Company was being exchanged for stock or bonds of the said American De Forest Wireless Telegraph Company, and that such exchanged stock would be non-negotiable and non-transferable for two years and so marked and stamped; and that by reason of making such stock non-transferable for two years as aforesaid, there would be no such stock on the market except the treasury stock of the said United Wireless Telegraph Company; thereby enabling said company to expand its business and put the same on a continuous dividend-paying basis; whereas it was a part of said scheme and artifice of said defendants to place upon the market and sell and transfer certain of their own personal stock in said United Wireless Telegraph Company, which they had theretofore received from said company in exchange for the stock and bonds of the American De Forest Wireless Telegraph Company, during said period within which they intended to represent said stock of said United Wireless Telegraph Company to be non-negotiable and non-transferable.

That it was a part of the said scheme and artifice of the
25 said defendants to represent to the persons intended to be influenced and deceived that the said United Wireless Telegraph Company included among its assets, stock and bonds of other wireless telegraph companies of the value of not less than $12,000.-000 but the said stocks and bonds had no market value and indeed were worthless, as the said defendants then and there well knew.

And it was a part of the said scheme and artifice of the said defendants to represent to said persons intended to be influenced and deceived thereby that all the stock of the said United Wireless Telegraph Company held by the officers and directors thereof was purchased and paid for the same as by the other stockholders; which said representations would be untrue, as said defendants then and there well knew.

And it was a part of the said scheme and artifice of the said defendants to falsely and fraudulently represent to the said persons intended to be influenced and deceived thereby, that the stock of the said United Wireless Telegraph Company owned and held by the officers and directors thereof, was made non-negotiable for two years, making it impossible for the said stock to be sold in competition with the treasury stock of said company; whereas it was a part of said scheme and artifice of said defendants to sell and transfer said stock so held in competition with said treasury stock during the period it was so stated to be non-negotiable.

And it was a part of the said scheme and artifice of the said defendants to represent to the said persons intended to be influenced and deceived thereby, that in the year nineteen hundred and nine every officer and director of the said United Wireless Telegraph Company had his stock therein tied up and made non-trans-
26 ferable so that it could not be sold for two years, and that the said officers and directors could not make any money out of their investments except to cause the said company to pay dividends, but the said representations would be untrue, as the said defendants then and there well knew.

And it was a part of the said scheme and artifice of the said defendants to represent to the said persons intended to be influenced and deceived, that the said United Wireless Telegraph Company was earning a profit over and above operating expenses, and that the said profit was increasing rapidly each month, and that the United Wireless Telegraph Company was an established enterprise conducted at a profit; but the said statements would be false as the said defendants then and there well knew.

And it was a part of the scheme and artifice of the said defendants to represent to the said persons intended to be influenced and deceived thereby, that in the month of May, nineteen hundred and nine, the said United Wireless Telegraph Company had an income sufficient to meet all expenses and salaries and to pay dividends, but the said representations would be false, as the said defendants then and there well knew.

And it was a part of the scheme and artifice of the defendants to represent to the said persons whom it was intended to influence and deceive, *said* that in the year nineteen hundred and eight, the said United Wireless Telegraph Company made a net gain of over Five million dollars, which was a profit of over twenty-six per cent. of the capital stock and thirty-five per cent. on the amount of stock issued; but the said representations would be untrue, as the said defendants then and there well knew.

27 And it was a part of the scheme and artifice of the said defendants to represent to the said persons intended to be influenced and deceived thereby, that during the year nineteen hundred and eight, the income and earning power of the said United Wireless Telegraph Company had increased to the amount of three hundred per cent., but the said statement would be utterly untrue, as the defendants then and there well knew.

And it was a part of the scheme and artifice of the said defendants to represent to the persons intended to be influenced and deceived thereby, that in the second year of doing business the said United Wireless Telegraph Company was in a position to pay a handsome dividend, but the said statement would be utterly false, as the said defendants then and there well knew.

And it was a part of the scheme and artifice of the said defendants to represent to the said persons intended to be influenced and deceived thereby, that an advance in the price of stock of the said United Wireless Telegraph Company was made only as increased assets and earnings of the said company warranted the same; but the said statement would be utterly untrue, as the defendants then and there well knew.

And it was a part of the scheme and artifice of the said defendants to represent to the said persons intended to be influenced and deceived thereby, that in the month of April, nineteen hundred and nine, the said United Wireless Telegraph Company was firmly established on a profit earning basis obtained from the operation of its extensive commercial system on such date — was earning profits from the operation of its said commercial business; but the said

representations would be untrue, as the defendants then and there well knew.

28 And it was a part of the scheme and artifice of the said defendants to represent to the said persons intended to be influenced and deceived thereby, that the treasury of the said company was, in the said month of April, nineteen hundred and nine, well supplied with cash to carry on its business, which representation would be false, as the said defendants then and there well knew.

And it was a part of the scheme and artifice of the said defendants to represent to the said persons intended to be influenced and deceived thereby, that the United Wireless Telegraph Company in the months of April and May, in the year of our Lord nineteen hundred and nine, was firmly established on a profit earning basis obtained from its operations of its extensive commercial system, and its assets were estimated to be worth many millions of dollars in excess of its authorized capital stock, and that the treasury of said company was well supplied with cash to carry on its business; whereas the said representations would be in all respects utterly untrue, as the said defendants then and there well knew.

And it was a part of the scheme and artifice of the said defendants to represent to said persons intended to be deceived thereby, that in the third year, that is to say, in the year nineteen hundred and nine, of its existence, the said United Wireless Telegraph Company had an income approximating One million dollars a year; but the said representation would be untrue, as the said defendants then and there well knew.

And — was a part of the said scheme and artifice of the said defendants to represent to such persons intended to be influenced and deceived thereby, that the value of the stock of the said United Wireless Telegraph Company had increased two hundred per

29 cent. within the months of May, nineteen hundred and eight and May, nineteen hundred and nine, but the said statement would be then and there absolutely untrue, as defendants well knew.

And it was a part of the said scheme and artifice of the said defendants to represent to said persons intended to be influenced and deceived thereby, that from the month of July, nineteen hundred and eight, until the month of July, nineteen hundred and nine, the value of the stock of the said United Wireless Telegraph Company had increased four hundred per cent., but the said representation would be false, as the said defendants then and there well knew.

And it was a part of said scheme and artifice of the said defendants to advance the selling prices of the stock of said company from time to time on the false and fraudulent representation that said advances were due to the extension of the commercial business of said company and the profits arising therefrom, but in truth and in fact said advances were to be made arbitrarily by said defendants without foundation for the purpose of selling said stock at an unwarranted price, and thereby deceiving said persons above mentioned as to the value thereof and realizing larger profits from sales.

And the plan and purpose of the said defendants in their scheme

and artifice to obtain money and property as aforesaid by false pretenses as hereinbefore mentioned and set forth, was to mislead and deceive the said Asa S. Couch and the said divers other persons hereinbefore named and to induce them and each of them to purchase the stock of the said United Wireless Telegraph Company as aforesaid.

And the said scheme and artifice the said defendants in-
30 tended to effect by opening and intending to open correspondence and communication with the said Asa S. Couch and said other persons to the jurors unknown and intended to be defrauded thereby by means of the Post Office Establishment of the United States and by inciting such other persons to open such communication with them, the said defendants, so devising and intending.

And the said defendants, on the said third day of July, in the year of our Lord, one thousand nine hundred and nine, at and in the District aforesaid, in and for executing the said scheme and attemptin- so to do, unlawfully and wilfully placed and caused to be placed in the post office of the United States at Station "P" in the said City and County, a certain sealed envelope, then and there addressed and directed as follows, that is to say:

"Dr. Osa S. Couch,
60 Green St.,
Fredonia, N. Y.;

and upon the said envelope in the upper left-hand corner thereof, appeared the following words and figures, that is to say:

New York Selling Agency, Inc.
18 Broadway,
New York;

and contained within the said envelope, then and there, was a circular letter with the heading of the said Selling Agency as follows:

Telephone 4574 Broad.

31 New York Selling Agency
Incorporated
Investment Securities
18 Broadway, New York.
Fiscal Agents
United Wireless Telegraph Company

and dated "New York, July 3, 1909," the same circular letter then and there being addressed as follows:

Dr. Osa S. Couch, Fredonia, N. Y.

DEAR SIR:—

and the said circular letter, then and there, was signed as follows, that is to say:

Yours very truly,

NEW YORK SELLING AGENCY, INC.
W. W. TOMPKINS, *President.*

Against the peace of the United States and their dignity and contrary to the form of the statute of the United States in such case made and provided.

Second Count.

And the jurors aforesaid, on their oaths aforesaid, do further present that Christopher C. Wilson, Samuel S. Bogart, William W. Tompkins, George H. Parker, Francis X. Butler, Charles C. Galbraith and William A. Diboll, officers, directors and stockholders of the United Wireless Telegraph Company, a corporation organized under the laws of the State of Maine and named as defendants
32 herein, late of the City and County of New York in the District and Circuit aforesaid, yeoman, heretofore, to wit, on the third day of August, in the year of our Lord one thousand nine hundred and nine, at the Southern District of New York and within the jurisdiction of this Court, having theretofore devised and intended to devise, a scheme and artifice to defraud one C. F. Williams and divers other persons to the jurors unknown, to obtain from them and each of them their money and property by false pretenses; and this count, that is to say, the second count, of this indictment, from and after the words "false pretenses" on page two in the first count of the same, to and including the words "to induce them and each of them to purchase the stock of the said United Wireless Telegraph Company as aforesaid," set forth in the said first count, on page nine thereof, is in all respects like the said first count in its allegations, saving and excepting that the name C. F. Williams is substituted in this count for the name "Asa S. Couch" wherever it occurs in the said first count; and the said first count within the limits aforesaid is herewith repeated and incorporated in this second count.

And the said scheme and artifice the said defendants intend to effect by opening and intending to open correspondence and communication with the said C. F. Williams and said other persons to the jurors unknown and intended to be affected thereby, by means of the Post Office Establishment of the United States and by inciting such other persons to open such communication with them, the said defendants, so devising and intending.

And the said defendants, on the third day of August in the year of our Lord one thousand nine hundred and nine, at and in the District aforesaid, in and for executing the said scheme and artifice
33 and attempting so to do, unlawfully and willfully placed and caused to be placed in the post office of the United States at

Station "P" in the said City and County, a certain sealed envelope, then and there addressed and directed as follows, that is to say:

C. F. Williams,
25 Blymer Ave.,
Mansfield, Ohio;

and upon the said envelope, in the upper left-hand corner thereof, appeared the following words and figures, that is to say:

New York Selling Agency, Inc.
18 Broadway,
New York;

and contained within the said envelope, then and there, was a circular letter with the heading of the said Selling Agency as follows:

Telephone- 5887, 5788 Broad.
Cable "Nyselage New York."

New York Selling Agency
Incorporated
Investment Securities
18 Broadway, New York.
Fiscal Agents
United Wireless Telegraph Company

and dated "New York, Aug. 3, 1909," the same circular then and there being addressed as follows:

34 Mr. C. F. Williams, Mansfield, O.

DEAR SIR:—

and the said circular letter then and there was signed as follows, that is to say:

Yours very truly,
NEW YORK SELLING AGENCY, INC.
W. W. TOMPKINS, *President.*

Against the peace of the United States and their dignity and contrary to the form of the statute of the United States in such case made and provided.

Third Count.

And the jurors aforesaid, on their oaths aforesaid, do further present that Christopher C. Wilson, Samuel S. Bogart, William W. Tompkins, George H. Parker, Francis X. Butler, Charles C. Galbraith and William A. Diboll, officers, directors and stockholders of the United Wireless Telegraph Company, a corporation organized under the laws of the State of Maine and named as defendant herein, late of the City and County of New York, in the District and Circuit aforesaid, yeoman, heretofore, to wit, on the twenty-ninth day of September, in the year of our Lord one thousand nine hundred and nine, at the Southern District of New York and within the

jurisdiction of this Court, having theretofore devised and intended to devise, a scheme and artifice to defraud one Rev. W. Elmer Bailey and divers other persons to the jurors unknown, to obtain from them and each of them their money and property by false pretenses;

35 and this count, that is to say, the third count, of this indictment, from and after the words "false pretenses" on page two in the first count of the same, to and including the words "to induce them and each of them to purchase the stock of the said United Wireless Telegraph Company as aforesaid," set forth in the said first count on page nine thereof, is in all respects like the first count in its allegations, saving and excepting that the name Rev. W. Elmer Bailey is substituted in this count for the name "Asa S Couch" wherever it occurs in the said first count; and the said first count within the limits aforesaid is herewith repeated and incorporated in this third count.

And the said scheme and artifice the said defendants intended to effect by opening and intending to open correspondence and communication with the said Rev. W. Elmer Bailey and said other persons to the jurors unknown and intended to be affected thereby, by means of the Post Office Establishment of the United States and by inciting such other persons to open such communication with them, the said defendants, so devising and intending.

And the said defendants, on the twenty-ninth day of September, in the year of our Lord one thousand nine hundred and nine, at and in the District aforesaid, in and for executing the said scheme and artifice and attempting so to do, unlawfully and wilfully placed and caused to be placed in the Post Office of the United States at Station "P" in the said City and County, a certain sealed envelope, then and there addressed and directed as follows, that is to say:

Rev. W. Elmer Bailey,
408 West St.,
Findlay, Ohio.

and upon the said envelope, in the upper left-hand corner
36 thereof, appeared the following words and figures, that is to say:

New York Selling Agency, Inc.,
18 Broadway,
New York;

and contained within the said envelope, then and there, was a circular letter with a heading of the said Selling Agency, as follows:

Telephone- 5887, 5788 Broad.
Cable "Nyselage New York."

New York Selling Agency
Incorporated
Investment Securities
18 Broadway, New York.
Fiscal Agents
United Wireless Telegraph Company

and dated "Sept. 29, 1909," the same circular letter then and there being addressed as follows:

Rev. W. Elmer Bailey.

DEAR SIR:—

and the said circular letter then and there was signed as follows, that is to say:

Yours truly.

NEW YORK SELLING AGENCY, INC.
W. W. TOMPKINS, *President.*

37 Against the peace of the United States and their dignity and contrary to the form of the statute of the United States in such case made and provided.

HENRY A. WISE,
United States Attorney.

(Endorsed:) U. S. Circuit Court.—The United States of America vs. Christopher C. Wilson, Samuel S. Bogart, William W. Tompkins, George H. Parker, Francis X. Butler, Charles C. Galbraith and William A. Diboll.—Indictment—Scheme to defraud by use of the mails. U. S. Rev. Stat., Sec. 5480 as amended.—Henry A Wise, U. S. Attorney.—A True Bill, Edward C. Burgess, Foreman.—U. S. Circuit Court, Southern District N. Y. Filed Aug. 3, 1910.—John A. Shields, Clerk.

1910.

Aug. 3.	Wilson pleads Not Guilty with leave to withdraw Sept. 20, Bail	$25,000
3.	Bogart pleads Not Guilty with leave to withdraw Sept. 20, Bail	$10,000
3.	Tompkins pleads Not Guilty with leave to withdraw Sept. 20, Bail	$10,000
3.	Butler pleads Not Guilty with leave to withdraw Sept. 20, Bail	$5,000
3.	Galbra-th pleads Not Guilty with leave to withdraw Sept. 20, Bail	$5,000
3.	Diboll pleads Not Guilty with leave to withdraw Sept. 20, Bail	$5,000

38 *Indictment.*

(Copy Indictment, Scheme to Defraud by Use of the Mails.)

Circuit Court of the United States of America for the Southern District of New York, in the Second Circuit.

UNITED STATES
vs.
CHRISTOPHER C. WILSON et al.

At a Stated Term of the Circuit Court of the United States of America for the Southern District of New York, in the Second Cir-

cuit, begun and held in the City of New York, within and for the District and Circuit aforesaid, on the first Monday of July, in the year of our Lord one thousand nine hundred and ten, and continued by adjournment to and including the third day of August, in the year of our Lord one thousand nine hundred and ten.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

The Jurors of the United States of America within and for the District and Circuit aforesaid, on their oath present that Christopher C. Wilson, Samuel S. Bogart, William W. Tompkins, George H. Parker, Francis X. Butler, Charles C. Galbraith and William
39 A. Diboll, officers, directors and stockholders of the United Wireless Telegraph Company, a corporation organized under the laws of the State of Maine, named herein as defendants and conspirators, and divers other persons to the jurors unknown, late of the City and County of New York, in the District and Circuit aforesaid, yeomen, heretofore, to wit, on the first day of October, in the year of our Lord one thousand nine hundred and seven, at the Southern District of New York and within the jurisdiction of this Court, unlawfully and willfully did conspire together to commit offences against the United States, in and by devising and intending to devise a scheme and artifice to obtain money and property by false pretenses from one Asa S. Couch, Lillian D. Chase, Roy Gilbert, W. C. Broeker, C. F. Williams, W. Elmer Bailey, and divers other persons to the Grand Jurors unknown, to be effected by opening and intending to open correspondence and communication with the said Asa S. Couch, Lillian D. Chase, Roy Gilbert, W. C. Broeker, C. F. Williams, W. Elmer Bailey and the said divers other persons to the Grand Jurors unknown, by means of the Post Office Establishment of the United States, and by inciting said Asa S. Couch, Lillian D. Chase, Roy Gilbert, W. C. Broeker, C. F. Williams, W. Elmer Bailey and said divers other persons to open communication with them, the said defendants, so devising and intending; and it was a part of the said conspiracy to execute the said scheme and artifice, and to attempt so to do by placing and causing to be placed in a Post Office of the United States, letters, circulars, pamphlets and other writings to be sent and delivered by the said Post Office Establishment to said persons intended to be affected by said conspiracy.

40 And it was a part of the said scheme and artifice which said defendants so conspired to devise and execute to induce the said Asa S. Couch, Lillian D. Chase, Roy D. Gilbert, W. C. Broeker, C. F. Williams, W. Elmer Bailey and said divers other persons to send to them, the said defendants, in and by the name of the United Wireless Telegraph Company, said moneys and property with intent on the part of the said defendants to convert the same to their own use, in and by falsely and fraudulently representing and pretending that the purpose of the organization of the said United Wireless Telegraph Company was to consolidate the two great wireless telegraph companies, namely, American De Forest Wireless Telegraph Company and the Marconi Wireless Telegraph Company,

and by taking over all wireless telegraph companies and wireless inventions that might or could in any way come in competition with the said United Wireless Telegraph Company; that the practical operation of wireless telegraphy by the said United Wireless Telegraph Company was yielding large net profits over and above operating expenses, and that the said company practically had a monopoly of the wireless business of the Continent of North America, and by reason thereof its stock had a high commercial value; and that the said company was free from debt except current expenses and had ample funds on hand to pay dividends on the stock issued and to extend and enlarge its commercial business; and that the officers and directors of the said company were not disposing of their personal stock in the said company, but that the sales of the stock of said company were only of the treasury stock of the same.

41 And it was a part of the said conspiracy and of the said scheme and artifice of the said defendants to represent to the said persons intended to be deceived thereby that the said United Wireless Telegraph Company was a consolidation of the said American De Forest Wireless Telegraph Company and the Marconi Wireless Telegraph Company in their systems of wireless telegraphy and that the said United Wireless Telegraph Company owned a controlling interest in the said Marconi Wireless Telegraph Company, whereas in truth and in fact said representations would be utterly false in every respect, as the said defendants then and there well knew.

And it was also a part of the said conspiracy and of the said scheme and artifice of the said defendants to represent to the said persons intended to be deceived thereby that the said United Wireless Telegraph Company had an income sufficient in the year nineteen hundred and seven to pay seven per cent. dividends on their preferred stock and to take care of all the expenses of the said company and still to leave a surplus; all of which representations would be utterly untrue, as the said defendants then and there well knew.

And it was also a part of the said conspiracy and of the scheme and artifice of the said defendants to represent to the said persons intended to be deceived thereby, that the said United Wireless Telegraph Company had and was continually acquiring large stock interests in the said Marconi Wireless Telegraph Company, whereas said representation would be untrue, as the defendants then and there well knew.

And it was a part of the said conspiracy and of the said scheme and artifice of the said defendants to represent to the said persons intended to be deceived and influenced thereby, that all stock

42 exchanged by the said United Wireless Telegraph Company for stock or bonds of the said American De Forest Wireless Telegraph Company would be non-negotiable and non-transferable for two years, and was so marked and stamped; and that by reason of making such stock non-transferable for two years, as aforesaid, there would be no such stock on the market except the treasury stock of the said United Wireless Telegraph Company, thereby enabling said company to extend its business and put the same on a contin-

uous dividend paying basis, whereas it was a part of said scheme and artifice which said defendants so conspired to devise and execute that said defendants would place on the market, sell and transfer stock of said United Wireless Telegraph Company owned by them and obtained by them from said company by exchange for stocks and bonds of the American De Forest Wireless Telegraph Company and would so sell and transfer said stock owned by them during the period within which they would so represent said stock to be non-negotiable and non-transferable.

That it was a part of the said conspiracy and of the said scheme and artifice of the said defendants to represent to said persons intended to be influenced and deceived thereby that the said United Wireless Telegraph Company included among its assets stocks and bonds of other wireless telegraph companies of the value of not less than twelve million dollars, whereas in fact the said stocks and bonds of other wireless telegraph companies owned by said United Wireless Telegraph Company had no market value and indeed were worthless, as the said defendants then and there well knew.

And it was a part of the said conspiracy and of the said
43 scheme and artifice of the said defendants to falsely and fraudulently represent to the said persons intended to be influenced and deceived thereby that the stock held by the officers and directors of the said United Wireless Telegraph Company was made non-negotiable for two years, making it impossible for the said stock to be sold in competition with the treasury stock of the said company, whereas it was part of said scheme and artifice and said conspiracy that said defendants should sell and transfer certain shares of said stock owned by them within the period during which said shares of said stock would be so represented to be non-negotiable and non-transferable.

And it was a part of the said conspiracy and of the said scheme and artifice of the said defendants to falsely and fraudulently represent to the said persons intended to be influenced and deceived thereby, that the said United Wireless Telegraph Company was earning a profit over and above operating expenses and that the said profit was increasing rapidly each month, and that the said United Wireless Telegraph Company was an established enterprise conducted at a profit, with income sufficient to meet all expenses and pay dividends, and that the treasury was well supplied with cash.

And it was a part of the said conspiracy and of the said scheme and artifice of the said defendants to represent to the said persons intended to be influenced and deceived thereby, that in the year nineteen hundred and eight the said United Wireless Telegraph Company made a net gain of over five million dollars, which was a profit of over twenty-six per cent. on the capital stock and thirty-five per cent. on the amount of stock issued; which said repre-
44 sentations would be false and untrue, as the said defendants then and there well knew.

And it was a part of the said conspiracy and of the said scheme and artifice of the said defendants to represent to the said persons intended to be influenced and deceived thereby, that during the year

nineteen hundred and eight the income and earning power of the United Wireless Telegraph Company had increased to the amount of three hundred per cent.; but the said representations would be utterly false, as the defendants then and there well knew.

And it was a part of the said conspiracy and of the said scheme and artifice of the said defendants to represent to the said persons intended to be influenced and deceived thereby, that in the second year of doing business the said United Wireless Telegraph Company was in a position to pay a handsome dividend; but as the said defendants then and there well knew, the said representation would be utterly false and untrue.

And it was a part of said conspiracy and of the said scheme and artifice of the said defendants to represent to the said above named persons intended to be influenced and deceived thereby, that an advance in the price of stock of the said United Wireless Telegraph Company was made only as increased assets and earnings of the said company warranted the same; but the said representation would be untrue, as the defendants then and there well knew.

And it was a part of the said conspiracy and of the said scheme and artifice of the said defendants to falsely and fraudulently represent to the persons intended to be influenced and deceived thereby, that the value of the stock of the said United Wireless Telegraph Company had doubled and quadrupled within periods of a year in length.

45 And it was a part of the said conspiracy and of the scheme and artifice of the said conspirators to advance the sale prices of the stock of the said United Wireless Telegraph Company from time to time and to represent to the said persons intended to be deceived and misled thereby that the said advances were due to the expansion of the commercial business of the said company and the profits arising therefrom; but in truth and in fact it was the plan of said defendants to make said advances arbitrarily without foundation, for the purpose of selling said stock at an unwarranted price, thereby deceiving the said persons intended to be misled and deceived thereby as to the value of such stock, and to realize larger profits for themselves from said sales.

And it was the plan and purpose of the said conspirators, the defendants above named in their scheme and artifice to obtain money and property as aforesaid, by false pretenses, as hereinbefore mentioned and set forth; and to mislead and deceive the said Asa S. Couch, Lillian D. Chase, Roy Gilbert, W. C. Broeker, C. F. Williams, W. Elmer Bailey, and the said divers other persons hereinbefore mentioned, and to induce them and each of them to purchase stock of the said United Wireless Telegraph Company as aforesaid.

And to effect the object of the said conspiracy the said Christopher C. Wilson, on the thirty-first day of December, in the year of our Lord one thousand nine hundred and eight, deposited and caused to be deposited in the Post Office in said District, City and County, at the Hudson Terminal Station, a sealed letter signed by him in the name of C. C. Wilson, president, addressed to

46 "Mrs. Lillian D. Chase,
295 Essex Street,
Bangor, Maine."

And further to effect the object of said conspiracy, the said George H. Parker, on the twenty-seventh day of March, in the year of our Lord one thousand nine hundred and nine, deposited and caused to be deposited in a Post Office of the United States at Seattle, Washington, a certain letter addressed and directed to

"Mr. Roy Gilbert,
601 W. 4th St.,
Owensboro, Ky."

and signed by him in the name of "Geo. H. Parker."

And further to effect the object of the said conspiracy the said Samuel S. Bogart, on the twentieth day of April, in the year of our Lord one thousand nine hundred and nine, deposited and caused to be deposited in the Post Office of the United States in the said City and County of New York, Southern District of New York, a certain letter addressed to

"Mr. W. C. Broeker,
Owensboro, Ky."

the said letter being signed in the name of S. S. Bogart, Vice-President of the United Wireless Telegraph Company.

And further to effect the object of the said conspiracy the said William W. Tompkins, on the third day of July, in the year
47 of our Lord one thousand nine hundred and nine, deposited and caused to be deposited in branch Post Office "P" in the said City and County of New York, Southern District of New York, a certain letter addressed to

"Dr. Osa S. Couch,
60 Green St.,
Fredonia, N. Y."

And further to effect the object of said conspiracy the said William W. Tompkins, on the third day of August, in the year of our Lord one thousand nine hundred and nine, deposited and caused to be deposited in a Post Office of the United States at Station "P," in the said City and County of New York, Southern District of New York, a letter addressed to

"C. F. Williams,
25 Blymer Ave.,
Mansfield, Ohio."

the said letter then and there purporting to be from the New York Selling Agency, 18 Broadway, New York, and purporting to be signed in and by the name of W. W. Tompkins, President.

And further to effect the object of the said conspiracy the said William W. Tompkins, on the twenty-ninth day of September, in the year of our Lord one thousand nine hundred and nine, deposited and caused to be deposited in the branch Post Office at Station "I" in said City and County of New York, Southern District of New York, a certain letter addressed to

"Rev. W. Elmer Bailey,
408 West St.,
Findlay, Ohio."

48 the said letter purporting to be signed

"Yours truly,
NEW YORK SELLING AGENCY, INC.
W. W. TOMPKINS, *President*";

against the peace of the United States and their dignity, and contrary to the form of the statute of the United States in such case made and provided.

HENRY A. WISE,
United States Attorney.

(Endorsed:) U. S. Circuit Court.—The United States of America vs. Christopher C. Wilson, Samuel S. Bogart, William A. Tompkins, George H. Parker, Francis X. Butler, Charles C. Galbraith and William A. Diboll.—Indictment.—Conspiracy to commit an offense against the United States.—U. S. Rev. Stat., Sec. 5440.—Henry A. Wise, U. S. Attorney.—A True Bill, Edward C. Burgess, Foreman.—U. S. Circuit Court, Southern District N. Y.—Filed Aug. 3, 1910.—John A. Shields, Clerk.

1910. Aug. 3. Defendants Wilson, Bogart, Tompkins, Butler, Galbraith and Diboll plead not guilty with leave to withdraw Sept. 20, 1910.

49 *Writ of Habeas Corpus.*

The President of the United States to William Henkel, Esq., United States Marshal for the Southern District of New York, Greeting:

We command you that you have the body of C. C. Wilson, by you imprisoned and detained, as it is said, together with the time and cause of such imprisonment and detention, by whatsoever name he shall be called or charged, before the Circuit Court of the United States in and for the Southern District of New York, in the Second Circuit, on the tenth day of October, 1910, at four o'clock in the afternoon of that day, and receive what shall then and there be considered concerning the said C. C. Wilson; and have you then and there this writ.

Witness, the Hon. John M. Harlan, Senior Associate Justice of

the Supreme Court of the United States, the 10th day of October, One thousand nine hundred and ten.

[SEAL.] JOHN A. SHIELDS,
Clerk Circuit Court United States for the Southern District of New York.

The foregoing Writ is hereby allowed, the petitioner may be admitted to bail in the sum of $100 pending the proceedings thereon.

LEARNED HAND,
United States District Judge.

50 *Return to Writ of Habeas Corpus.*

Circuit Court of the United States, Southern District of New York.

In the Matter of the Application of CHRISTOPHER C. WILSON for a Writ of Habeas Corpus.

I, William Henkel, United States Marshal for the Southern District of New York, hereby certify upon return to the writ of habeas corpus herein that Christopher C. Wilson is imprisoned and detained by me by virtue of an order of this Court made on the 10th day of October, 1910, a copy of which is hereto annexed and made a part hereof.

WILLIAM HENKEL,
United States Marshal, Southern District of New York.

(Order of October 10th, 1910, adjudging Christopher C. Wilson guilty of contempt of Court, being same order attached to Petition for Writ of Habeas Corpus, marked Exhibit A.)

51 *Order Dismissing Writ.*

United States Circuit Court for the Southern District of New York.

In the Matter of the Application of CHRISTOPHER C. WILSON for a Writ of Habeas Corpus.

It appearing on the return of the Writ of Habeas Corpus allowed by me herein that Christopher C. Wilson, upon whose petition the said Writ was issued, is lawfully detained by the United States Marshal for the Southern District of New York, by virtue of an order of this Court committing said Christopher C. Wilson to the custody of said Marshal for a contempt of court, a copy of which said order is annexed to the return of said Marshal and made a part thereof; and after hearing John B. Stanchfield, Esq., attorney for said Christopher C. Wilson, for the motion to discharge said Christopher C. Wilson, and Henry A. Wise, Esq., United States District Attorney for the Southern District of New York, in opposition thereto; it is

Ordered, That said Writ of Habeas Corpus be, and the
52 same is hereby dismissed, and said Christopher C. Wilson remanded to the custody of the said Marshal.

Dated, New York City, October 11, 1910.

LEARNED HAND,
United States District Judge.

U. S. Circuit Court, Southern District of N. Y.—Field Oct. 11, 1910.—John A. Shields, Clerk.

53 *Petition for Appeal and Allowance.*

Circuit Court of the United States, Southern District of New York.

In the Matter of the Application of CHRISTOPHER C. WILSON for a Writ of Habeas Corpus.

Christopher C. Wilson, feeling aggrieved by the order of this court made on the 11th day of October, 1910, dismissing the writ of habeas corpus heretofore allowed, comes now by John B. Stanchfield, his attorney, and hereby appeals from said order to the Supreme Court of the United States, and petitions this court for an order allowing said Christopher C. Wilson to prosecute said appeal to the Honorable Supreme Court of the United States according to the laws of the United States in that behalf made and provided, and that a transcript of the record and proceedings and papers upon which said order was made duly authenticated, may be sent to said Supreme Court, and also that an order be made fixing the amount of security said defendant shall give and furnish upon said appeal, and that upon the giving of such security all other proceedings in this Court be suspended and stayed until the determination of said appeal by the said Supreme Court of the United States, or until the further order of the Court in the premises. And your petitioner will ever pray.

JOHN B. STANCHFIELD,
Attorney for Christopher C. Wilson.

54 The foregoing appeal and stay prayed for is hereby allowed and the said security on the appeal fixed at the sum of One hundred (100.) Dollars.

LEARNED HAND,
United States District Judge, Holding Circuit Court.

A copy of the within paper has been this day received at this office.

Oct. 27, 1910.

HENRY A. WISE,
U. S. Attorney.

U. S. Circuit Court, Southern District N. Y., Filed Oct. 27, 1910 John A. Shields, Clerk.

55 *Assignments of Error.*

United States Circuit Court, Southern District of New York.

In the Matter of the Application of CHRISTOPHER C. WILSON for a Writ of Habeas Corpus.

Now comes the above named, Christopher C. Wilson, by his counsel, and files the following assignment of errors upon which he will rely upon his prosecution of the appeal sued out by him to the Supreme Court of the United States in the above entitled proceeding to review the order entered on the 11th day of October, 1910, dismissing the writ of habeas corpus theretofore sued out by him, as follows:

1. That said court erred in dismissing the said writ of habeas corpus by its order, by which it was

"Ordered that said writ of habeas corpus be, and the same hereby is dismissed, and said Christopher C. Wilson remanded to the custody of the said Marshal."

2. That said court erred in not granting an order allowing said writ of habeas corpus and discharging the said Christopher C. Wilson from custody.

And the said Christopher C. Wilson, aforesaid, the appellant prays that the order entered herein on the 11th day of October, 1910, dismissing said writ of habeas corpus, for the errors aforesaid, and other errors in the record and proceedings herein, may be reversed and altogether held for nothing, and that said court be directed to enter an order discharging the said Christopher C. Wilson
56 from custody forthwith.

Dated, New York, October 27th, 1910.

JOHN B. STANCHFIELD,
Attorney for Christopher C. Wilson, Appellant.

A copy of the within paper has been this day received at this office. Oct. 27, 1910.

HENRY A. WISE,
U. S. Attorney.

U. S. Circuit Court, Southern District N. Y. Filed Oct. 27, 1910, John A. Shields, Clerk.

57 By the Honorable Learned Hand, one of the Judges of the District Court of the United States for the Southern District of New York, in the Second Circuit, Holding Circuit Court.

To United States of America, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States at Washington within thirty days from the date hereof, pursuant to an order allowing appeal filed in the Clerk's Office of the Circuit Court of the United States for the

Southern District of New York, wherein Christopher C. Wilson is appellant and you are appellee to show cause, if any there be, why the order in said petition allowing appeal mentioned should not be corrected and speedy justice should not be done in that behalf.

Given under my hand at the Borough of Manhattan, in the City of New York, in the District and Circuit above named, this 27th day of October, in the year of our LordOneThousand Nine Hundred and Ten, and of the Independence of the United States the One Hundred and Thirty-fifth.

LEARNED HAND,
Judge of the District Court of the United States for the Southern District of New York, in the Second Circuit, Holding Circuit Court.

58 [Endorsed:] 3/135. E. & A. D. 3163. Supreme Court of the United States. Christopher C. Wilson, Appellant, against United States of America, Appellee. Original. Citation. John B. Stanchfield, Attorney for Appellant, Office and P. O. address, 5 Nassau Street, Borough of Manhattan, New York City. U. S. Circuit Court, Southern District, N. Y. Filed Oct. 27, 1910. John A. Shields, Clerk. A copy of the within paper has been this day received at this office. Oct. 27, 1910. Henry A. Wise, U. S. Attorney. J. C.

59 UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, John A. Shields, Clerk of the Circuit Court of the United States of Amreica, for the Southern District of New York, in the Second Circuit, do hereby Certify that the foregoing pages numbered from one to fifty-eight inclusive, contain a true and complete transcript of the record and proceedings had in said Court, in the cause entitled Christopher C. Wilson, Appellant, against United States of America, Appellee (Habeas Corpus) as the same remain of record and on file in my office.

In Testimony Whereof, I have caused the seal of the said Court to be hereunto affixed, at the City of New York, in the Southern District of New York, in the Second Circuit, this 2nd day of November in the year of our Lord One Thousand Nine Hundred and Ten, and of the Independence of the said United States the One Hundred and Thirty-fifth.

[Seal of U. S. Circuit Court, South. Dist. New York.]

JOHN A. SHIELDS, *Clerk.*

[Endorsed:] United States Supreme Court. Christopher C. Wilson, Appellant, vs. United States of America, Appellee. (Habeas Corpus.) Transcript of Record from the Circuit Court of the United States for the Southern District of New York.

Endorsed on cover: File No. 22,381. S. New York C. C. U. S. Term No. 760. Christopher C. Wilson, appellant, vs. The United States. Filed November 5th, 1910. File No. 22,381.